

REMARKS

This application has been carefully reviewed in light of the Office Action dated January 23, 2004. Claims 1 to 13 are in the application, with Claim 1 being the sole independent claim. Claims 9 to 13 have been newly-added. Reconsideration and further examination are respectfully requested.

Claims 1 to 8 were rejected under 35 U.S.C. § 102(e) over U.S. Patent No. 6,211,454 (Sano '454). The rejection is respectfully traversed.

According to one feature of the invention, a difference between a spacing in a direction parallel to a principal surface of the substrate and a spacing of single crystal silicon is within the range of 0.2% to 1.0% with regard to the spacing of the single crystal silicon. This difference between spacings can be achieved by promoting the displacement of silicon atoms adhering to the substrate using such methods as increasing high frequency power at an early stage of film formation or introducing an inert gas such as argon at an early stage of film formation. See Examples 1 to 3 and 6, and paragraph [0059] of the present specification.

Sano '454 is not seen to teach or suggest at least the foregoing feature.

In the Response to Arguments, the Office Action asserts that the structure taught by Sano '454 is identical to the claimed invention. Applicants respectfully disagree.

While it is true that Sano '454 discloses a photovoltaic element in which the distance from the conductive layer surface to the substrate surface (represented by a function f) has a standard deviation of an inclination $\arctan(df/dx)$ from 15° to 55° within the range of a sampling length dx from 20 nm to 100 nm, it does not necessarily follow that the difference between a spacing in a direction parallel to the principal surface of the substrate and a spacing of

single crystal silicon is within the range of 0.2% to 1.0% with regard to the spacing of the single crystal silicon. Other arrangements are possible.

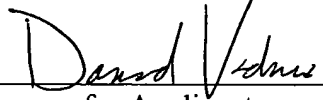
In this regard, Applicants note that the fact that a certain result or characteristic may be present in a reference is insufficient to establish inherency. To establish inherency, the extrinsic evidence must make clear that the missing descriptive matter is necessarily present in that which is being described in the reference. See MPEP §2112.

Applicants therefore conclude that Sano '454 does not teach or suggest the claimed invention, and it is respectfully requested that the Section 102 rejection be withdrawn.

No other matters being raised, it is believed that the entire application is fully in condition for allowance, and such action is courteously solicited.

Applicants' undersigned attorney may be reached in our Washington, D.C. office at (202) 530-1010. All correspondence should continue to be directed to our below-listed address.

Respectfully submitted,



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